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LEGALITY OF EUTHANASIA IN INDIA: RIGHT TO DIE WITH DIGNITY

Jhalak Singhal[1]

I. ABSTRACT

Anyone who has ever been born will eventually pass away because death is an inevitability. One of the moral issues that has received the most attention, recently is the concept of Euthanasia or mercy killing. There have been many discussions and debates about morality & legality of this concept as well as both its pros & cons over centuries. When all the life saving measures fail to give patients who are either terminally ill or are in condition of being persistent vegetative, a better quality of life, which are one of the most perplexing issues faced today then, physician – assisted suicide or Euthanasia can only be seen as a practical solution. The Indian Constitution's Article 21 guarantees, "Right to Life" as a Fundamental Right which is an unalienable freedom that cannot be taken away by anyone. The ultimate intent of a human existence is to be lived with absolute dignity. As a result, coercing someone into living in a degrading manner goes against their free choice. As a result of the "Right to Die with Dignity" movement, lawmakers are now allowing people to choose how they want to pass away. Finding the root causes of a patient's request for euthanasia was essential, as was using every legal instrument at our disposal to treat the patient's condition and any other uncomfortable symptoms. This paper discusses euthanasia, including its types, its meaning in India and how it relates to the "Right to Die with Dignity" in India as well as western countries, arguments for and against it, and its ramifications for various religions.

II. KEYWORDS

Euthanasia, Moral, Mercy Killing, Die with Dignity.

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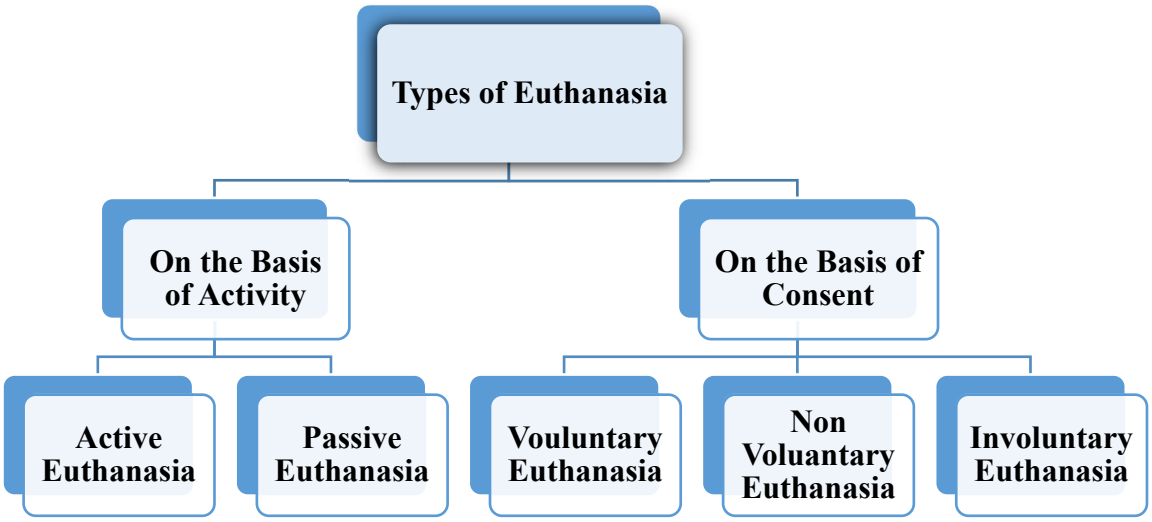
III. INTRODUCTION

"We have no control over how we arrive in the world, but at the end of life, we should have legal control over how we leave it." – Sir Patrick Stewart

When there is conversation regarding defending individual rights, the Indian Constitution always serves as an anchor. Each citizen is protected by the fundamental human rights, of which "the right to life" is a part, from the moment of birth. According to the Indian Constitution, the basic right that every individual has is the "Right to Live," and that no one person will kill another. However, any person may prefer death instead of life if living is much more agonizing and intolerable to him than dying. Thus, euthanasia can be considered a practice of choosing death rather than living a life.[2] In the early 17th century, this word was initially coined by Francis Bacon. The Greek words "Eu" which means "good" and "Thanatos," which means "death," are the roots of the word "euthanasia." Helping someone to get a good or peaceful death apart from any kind of protracted or awful death is what the term "euthanasia" refers to. It can also be defined as "the act of taking one's own life to relieve suffering" in the Oxford Concise Medical Dictionary. Commonly, it can also be called "mercy killing." The idea behind this is that euthanasia would allow the ill person to experience a "good death" rather than condemning them to a painful, slow, or inhumane demise.[3] But the question in hand is whether or not the human being also possesses the "Right to Death" according to the Constitution of India along with the "Right to Life"? It has long been seen that it is the subject of a number of contentious discussions among the elites, members of the intelligentsia, and academics, as well as within the walls of the courts.

[2] POSITION OF RIGHT TO DIE, 29 (2022).
[3] Pope John & Paul Jj, *THE CRTICIAL ANALYSIS OF PASSIVE EUTHANASIA AS A CONVERGING NEED IN INDIA*.

IV. TYPES OF EUTHANASIA



- **On the basis of Activity** – As seen on the basis of Activity, it can be classified into two types:

1. **Active Euthanasia** – Positive or the Aggressive euthanasia are the other names which can be given to active euthanasia. It alludes to directly interfering with another person's life with the intent to kill them. In order to put a full is stop at a pointless life and existence of a person, it acts as a direct action. All forms of active euthanasia are prohibited as this type can be considered as typically a quicker way to bring about death.[4] **For instance**, by administering a lethal dosage of a drug or a lethal injection to the patient with a substance like sodium pentothal.
2. **Passive Euthanasia** - Negative or the Non-Aggressive Euthanasia or the Euthanasia by omission are the other names which are given to passive

[4] Euthanasia in India, https://www.legalservicesindia.com/article/787/Euthanasia-in-India.html (last visited Nov 16, 2022).

euthanasia. Life sustaining interventions or medical care that would have prolonged life are stopped with this kind. Here, a step which is necessary to keep the patient alive is being skipped, which results in the death of the patient. **For instance**, depriving a person of routine food & water or of necessary medication, resulting into the death.[5] Generally, it is being considered that this is slower and even more uncomfortable than the other kind i.e., active euthanasia.

- **On the basis of Consent –** Euthanasia can be of three types on the basis of consent that are:

1. **Voluntary Euthanasia** – When the patient expresses his/ her will for euthanasia and gives their consent, then voluntary euthanasia is being carried out. It essentially has to do with patient's right to choose, which serves both his or her own interests and the interests of others affected by the patient's terminal illness, in order to end their lives. During this kind of euthanasia, the patient can request to die either through active or through passive form of euthanasia.[6] **For instance**, declining to receive exorbitant medical care or skipping meals.
2. **Non-Voluntary Euthanasia** - It can be defined as the death of a person who is mentally as well as physically incapable asking for the death. In case of non – voluntary euthanasia, there is no will to live inside the patient left or may not have had the opportunity to do so. Here, generally the family members take the decision on behalf of the patient[7]. Like a patient in coma or is profoundly brain injured.
3. **Involuntary Euthanasia** - This kind of euthanasia occurs when without the expressed desire of a patient, he / she has been put to death. It can be defined as situations in which the life of the patient who is competent is

[5] *Id.*
[6] Rouf Ahmad Bhat, *LEGAL AND ETHICAL CONSIDERATION OF EUTHANASIA IN INDIA : A CHOICE BETWEEN LIFE AND DEATH*.
[7] Vibhu Aggarwal, *Euthanasia In India- An Analytical Study*, 19 SUPREMO AMIC. 639 (2020).

ended against his/her wish, which are clearly murderous though not always and got against the concept of euthanasia[8]. **For instance**, A shell burst causes a soldier's stomach to be torn open. He was screaming in agony and was in excruciating pain. He urges the army physician to save him. No matter what occurs, the doctor is aware that he will pass away in ten minutes. Since, the doctor is out of painkillers, he chooses to shoot the soldier dead rather than causing him any more suffering[9].

V. DISTINCTION BETWEEN EUTHANASIA AND SUICIDE

The two words here "Euthanasia" and "Suicide" cannot be used interchangeably. We can distinguish between the two terms as both are distinct acts. In order to put an end to the life a person that is the third party, the action that is taken by another person can be termed as "Euthanasia". The euthanasia could be an active or a passive one, depending on whether the third party assists in killing of the other person or not. If there is no intention involved while an act has occurred then it can be inferred that since the consent has been given by the patient himself/ herself to die, therefore, any person assisting him / her would not be held responsible for that by applying the maxim of "*Actus non facit reum nisi men sit rea*" which means that "*the act is not culpable unless the mind is guilty*". But due to this a critical question whether allowing to kill someone by giving consent would absolve the accused from being guilty of criminal liability arises. So, the law which talks about consent being comprehensive states unequivocally that when consent is allotted with the intent to cause a great bodily injury or death then, it could not be used as a defense[10].

On the other hand, suicide refers to deliberate killing of oneself. As a result, termination of life of a person which would be intentionally, through self-inflicted means for variety of reasons including failure in exams or in finding a suitable job opportunity or

[8] *Id.*
[9] BBC - Ethics - Euthanasia: Voluntary and involuntary euthanasia, https://www.bbc.co.uk/ethics/euthanasia/overview/volinvol.shtml (last visited Aug 26, 2023).
[10] Aggarwal, *supra* note 6.

frustration in love but most commonly it could be due to depression, is also suicide. Methods like poisoning or stabbing could also be used by a person in order to end his/ her life voluntarily which would also, be taken into consideration as suicide[11].

Further, there is also a difference between "the assisted suicide" and "euthanasia". A fatal dose of a suitable drug is generally provided to the ill person in euthanasia's case by the physician whereas the lethal drug which is given by the physician to the ill person is consumed by the patient himself/ herself then it would amount to the assisted suicide. However, the due care has to be taken care off by the doctors in the both the circumstances[12].

VI. STATUS OF EUTHANASIA IN INDIA

In India, the issue regarding legalizing the concept of Euthanasia is not new. We can understand it in a better manner when viewed through the lens of historical as well as the cultural heritage. Death is something which is unavoidable, the person who has come to the earth, has to go also one day. Bhagwat Geeta also mentions that:

"*Jatasyu hi Dhurvo mrityur dhurvain janma mrityasya cha Tasmad apariharyerthe an tam shochitum areas"*.

It means that those who have born for them, death is unavoidable and those who have died for them rebirth is unavoidable. As a result, you should not bemoan the inevitable[13]. Customs always tend to be followed in India, some of which might be considered as autocratic, unjustified and senseless in today's time. On one hand we can see that if a person wants to end his/ her life through an artificial thing then it is thought to be considered as one of the biggest sins in the culture of India. Thus, creating an ambiguous perspective regarding the concept of suicide and euthanasia. Jauhar, Sati Pratha and Saka

[11] Euthanasia in India, *supra* note 3.
[12] Government of the Netherlands, *Euthanasia , assisted suicide and non-resuscitation on request*, 2 (2019), https://www.government.nl/topics/euthanasia/euthanasia-assisted-suicide-and-non-resuscitation-on-request.
[13] Bhagavad Gita As It Is -- Introduction -- By A.C Bhaktivedanta Swami Prabhuapda, Hare Krishna, https://asitis.com/introduction/ (last visited Nov 18, 2022).

are certain kind of custom that were earlier performed by the Indians which involve killing themselves on the name of the customs and the rituals. Raja Ram Mohan Rai was the person by whom the sati pratha was abolished as he does not had faith in all these customs and rituals and believes it to be a sin against the society[14].

However, post-independence, in the 21st century there were magnificent number of changes and development that has been taken place in the Indian society in the area of healthcare facilities which has resulted in the rise in the life expectancy among the people. Nowadays even the medical facilities like using the life support systems commonly called as ventilators have been adopted by our country, through which even the patient who is mentally dead, his/ her life could be extended[15].

Whereas India's constitution was modelled after the legal systems of numerous other nations, and the courts routinely cited various foreign rulings. India has a strict ban against euthanasia. Euthanasia or mercy killing situations will undoubtedly come within clause first of Section 300[16] of the Indian Penal Code, 1860 since there is a purpose on the part of the doctor to murder the patient. The doctor or mercy murderer would thus be penalized under Section 304[17] for culpable homicide that did not amount to murder because exception 5 to the aforementioned Section would be applied in such cases due to the lawful authorization of the deceased.[18]

However, under Section 300[19], only instances of voluntary euthanasia could be covered by Exception 5. Proviso one to Section 92[20] of the IPC would forbid non-voluntary and involuntary euthanasia, making it unlawful.[21] "Right to Life" is being mentioned in Article 21[22]. In order to expand Article 21's scope, series of decisions have been given by

[14] Aggarwal, *supra* note 6.
[15] *Id.*
[16] Indian Penal Code, 1860, sec 300.
[17] Indian Penal Code, 1860, sec 304.
[18] Euthanasia Laws in India and Other Nations, https://legalbots.in/blog/euthanasia-laws-in-india-and-other-nations (last visited Aug 27, 2023).
[19] *supra* note 15.
[20] Indian Penal Code, 1860, sec 92.
[21] *Id.*
[22] Constitution of India, 1950, art.21.

the Apex Court, so that "Right to Live with Dignity" should be considered as an integral part of "Right to Life and Liberty".

A. K.S. Puttaswamy and Anr. V. UOI and Ors[23]

Under Article 21[24], the word "Dignity" is a key component is again being repeatedly said by the court in the case of **K.S. Puttaswamy and Anr. V. UOI and Ors**[25]. It was also, stated that there cannot be a reduction in the dignity of a human to a single description or definition.

If Article 21 grants the citizens of the country "Right to Live a Dignified Life" does it also grant the citizens the right not to live, in case he/ she wants to put his life to an end. If that's the case, what happens to the provision that make attempt to take one's own life a crime under the Indian Penal Code, 1860[26]?

B. State of Maharashtra V. Maruti Shripati Dubal[27]

For the First time, the issue regarding "Right to Die" appeared before the court in the case of **State of Maharashtra V. Maruti Shripati Dubal**[28], in which it was stated by the High Court of Bombay that "Right to Die" will be included under "right to Life", rendering Section 309 of IPC[29] as unconstitutional as it mentions that attempting to commit of suicide is a punishable offence.

C. P Rathinam V. UOI[30]

The same issue arose again in the next case, **P Rathinam V. UOI**[31], here the apex court determined that "Right to Die" does not come under the ambit of "Right to Live" under Article 21 of the Constitution. Section 309 of IPC was deemed by the Supreme Court to

[23] (2017) 10 SCC 1.
[24] *supra* note 21.
[25] *supra* note 22.
[26] MP Jain, *Indian Constitutional Law*, 1231 – 1232, Eight Edition Lexis Nexis 2018.
[27] AIR 1997 SC 411
[28] *Id.*
[29] Indian Penal Code, 1860, sec 309.
[30] AIR 1994 SC 1844.
[31] *Id.*

be brutal as well as unreasonable that should be removed from the statue books in order to humanize laws which are mentioned under the Indian Penal Code. As a result, section 309 of IPC[32] was not deemed to be in compliance with the Indian Constitution's Article 21[33].

D. Gian Kaur V. State of Punjab[34]

The case of **Gian Kaur[35]** comes next. Gian Kaur along with her husband was found guilty in this case of aiding Kulwant, their daughter-in-law, in committing suicide under section 306 of the IPC. Since section 309 of the IPC had already been ruled unconstitutional in the **Rathinam case[36]**, it was further, argued that section 306 was also unconstitutional. It was argued that because section 309 was declared unconstitutional and the right to die was included in article 21, anyone who aids another person in committing suicide is merely considered to be assisting in the enforcement of his/ her fundamental right guaranteed under article 21. That is sufficient evidence that article 306 of the IPC violates article 21 and is therefore unconstitutional. This debate caused the Rathinam decision to be concentrated and ultimately overturned[37].

After about ten years, The Law Commission of India released its 196th Report[38] on terminally ill patients in 2006, which advocated for the legalization of "passive euthanasia" under firm and regulated conditions. It was clearly mentioned in the report that the concept of euthanasia as well as the of physician – assisted suicide would both still be considered that they are not legal and it only addressed how to protect and take care of the patients who have no chance of recovery and are in the state of being permanent vegetative.

[32] *Supra* note 28.
[33] Aggarwal, *supra* note 6.
[34] AIR 1996 SC 946.
[35] *Id.*
[36] *Supra* note 29.
[37] *Supra* note 18.
[38] 196th Report of the Law Commission on Medical Treatment of Terminally III Patients (Protection of Patients and Medical Practitioners (March 2006)).

In such a situation a request either verbally or in writing could be voluntarily made by the patient like asking to remove the support system, in order to expedite the death but that should be subjected to certain safeguards. The doctor taking care of such a patient has the responsibility to fully inform the patient about his/ her condition and prospects for the future. According to the report, this request is made as a binding instruction from the patient who is terminally ill and the physician who complies with such patient's instructions is protected from the criminal liability under section 306 of IPC. Additionally, where the patient is not able to do or instruct then the next friend must obtain a mandatory High Court clearance before removing the life support system of the patient.[39]

In its 210th Report[40], The Law Commission of India concluded that section 309 of IPC is inhumane. An attempt at suicide, according to the article, is a symptom of a "diseased condition of the mind" it deserved care and attention, not to be punished. It is unfair and unjust to punish someone further while they are already suffering from pain. It does not contribute to the reduction of suicides or the expansion access to healthcare to the people who had ever tried to attempt suicide[41].

E. Aruna Shanbaug V. UOI[42]

In India, euthanasia in its passive form has become legal, more specifically in the landmark case of **Aruna Shanbaug V. UOI[43]**, the apex court with its ruling on March 7, 2011, made the history by approving passive euthanasia or the removal of life support systems i.e., ventilators from the person who is the permanent Vegetative State (PVS) or whose brain is dead. Aruna Shanbaug was from Karnataka and was a former nurse. She was sexually assaulted by a ward boy in 1973, at King Edward Memorial Hospital, Mumbai where she used to work as a junior nurse and since then she has been in Vegetative state. She has been in this condition for 37 years when, on January 24, 2011,

[39] Achal Gupta, *Euthanasia - Indian View*, SCC ONLINE BLOG 1 (2020), https://www.scconline.com/blog/post/2020/11/28/euthanasia-indian-view/.
[40] 210th Report of the Law Commission on Decriminalization of Attempt to Suicide (2008).
[41] Right to Die_ Court in Review - Supreme Court Observer.
[42] (2011) 4 SCC 454.
[43] *Id.*

the apex court established a panel of medical practitioners to examine her in response to journalist friend of Aruna's Pinki Virani's petition.

On March 7, 2011, the court denied the petition for granting active euthanasia. However, it permitted the concept of passive euthanasia in its landmark decision in India. It was clearly stated by the court that active euthanasia, which involves administering a lethal injection to hasten the death of the ill person in this situation is illegal and will remain so. Until a legislation is not passed by the Parliament, there were certain rules that were established by Supreme Court. They are as follows[44]:

- Their parents or respective spouse or any other close relatives should decide whether to stop providing life support. If any one of them is not present, this choice can be made by an individual's acting as the next friend. Additionally, the medical professional making the decision for the patient must act honestly and, in the person's, best interests.
- Because it is possible in India for relatives or others to misbehave in order to inherit the patient's property, therefore, a mandate was made by the Honorable Supreme Court to obtain permission from the High Court in question before withdrawing life support, even if the decision is made by close relatives, doctors or the ill person's next friend.
- Further, it said that a specific procedure needs to be followed by the High Court in case of filling of such an application and decision must be taken by a bench consisting of minimum two judges who would consult with a committee of three reputable doctors who would be chosen by the bench after carefully examining the patient. The notice to the state, close relatives and next-door neighbors should also be served and the High Court must rule on this application after hearing from them, was also ordered by the court.

[44] Sanjeev Kumar Tiwari & Ambalika Karmakar, *Concept of Euthanasia in India – A Socio- Legal analysis INTRODUCTION :*, 2 (1900).

Despite the fact that the apex court rejected the petition for euthanasia and refused to permit it in the current case as a result of the hospital staff's exceptional and previously unheard-of dedication to caring for Aruna, it opened the door for many suffering people who want that they should die with a dignity.

For the benefit of humanity, a bench which must be constitutional must look at this legal issue at hand, said by the court. The disputed topic of Euthanasia recently resurfaced in the current context when the court on 15 July, 2014, sent notices regarding the legalization of passive euthanasia to all the States as well as the Union Territories. In order to help it with this matter, Mr. T. R. Andhyarujina who was a former Solicitor General was also appointed by the court. As a matter of principle, euthanasia was not supported by the Government. The legislature must make a decision after careful deliberation and consideration of all relevant viewpoints[45].

In India, there is no law or statute that declares the legality of mercy killing or permits it. It was suggested to legislate a law on the subject of passive euthanasia and as a result, The Medical Treatment of Treatment of Terminally Patients (Protection of Patients and Medical Practitioners) Bill in the 241st Report of the Law Commission of India, titled "Passive Euthanasia - A Relook." was drafted. In June 2014, the aforementioned Bill was forwarded to the Ministry of Health and Family Welfare's technical division (Directorate General of Health Services-Dte. (GHS) for review. Numerous experts attended meetings that was called and presided over by the special director general of the health service[46].

Following this, meetings were held to examine the Bill on May 22, 2015, with the Secretary of the Ministry of Health and Family Welfare, who was serving as the meeting's chairman. Eventually, creating legislation regarding passive euthanasia was proposed by the committee of experts[47].

[45] *Id.*
[46] (PDF) EUTHANASIA AND ITS DESIRABILITY IN INDIA.
[47] *Id.*

F. Common Cause V. UOI[48]

Later on, the appellant society filed a writ petition in **Common Cause V. UOI[49]**, asking for the declaration of the "Right to Die with Dignity" guaranteed under the Article 21[50] and to issue instructions to opt for appropriate methods by consulting the State government, if thinks fit, so that the people with deteriorating health or terminally ill should be able to execute a document viz "Right to Die"[51].

Therefore, it was ruled that "Right to Die with Dignity" is included in Article 21[52]. The Honorable court also made medical attorney authorization and living wills legal. This made possible for the people to create living wills and powers to attorney, allowing them to stop receiving treatment if they are terminally ill or in the vegetative condition. By recognizing personal autonomy, the Apex court's ruling addressed the contentious issue of whether or not passive euthanasia is permitted in India.[53]

VII. STATUS OF EUTHANASIA IN OTHER COUNTRIES

- **Netherland**

  The Act named as the "Termination of Life on Request and Assisted Suicide (Review Procedures) Act, 2002, basically governs the concept of euthanasia in Netherlands after it became the first nation to legalize the concept of euthanasia and assisted suicide in Europe in the year 2002. As per the Act, if the attending physician acts in accordance with the standards of due care, then the physician assisted suicide as well as euthanasia will not be considered as a crime. There are certain conditions that needs to fulfilled by the physicians as the law permits a medical review board to halt legal action against physicians, in case they do not abide by these rules[54].

[48] (2018) 5 SCC 1.
[49] *Id.*
[50] *supra* note 21.
[51] Gupta, *supra* note 38.
[52] *supra* note 21.
[53] POSITION OF RIGHT TO DIE, *supra* note 1.
[54] Aggarwal, *supra* note 6.

1. When three is no hope for the patient's suffering to get better.
2. When over the time, the patient voluntarily keeps on requesting for granting him euthanasia.
3. The exact condition of the patient must be completely and truly told to him/ her.
4. At least one additional independent doctor must be consulted in order to verify the conditions.
5. The doctor must insure his /her presence at the time he/ she is allowing the patient to perform the death that is medically acceptable.

- **Australia**

The Terminally Ill Act of 1995 in Northern Territory of Australia, legalized assisted suicide in July 1996. It makes up about 1/6" of Australia's total land area. Marshall Perron advocates for this service of performing assisted suicide on individuals, but numerous pro-life organizations are against it. Under a doctor's prescription, passive euthanasia is permitted. Similar legislation was then proposed in various Australian states. Bob Dents was the first subject on whom it was tested on September 22, 1996. He received the news that he was suffering from cancer in 1991 and shortly thereafter converted to Buddhism because his faith forbade him from carrying out any form of euthanasia. He confesses in a letter that he doesn't want to live any longer, and since his religion permits him to end his life, euthanasia should be permitted for him[55].

On his birthday, 200 people marched through Sydney's streets after he passed away asking to establish the laws related to right to die. Christian Rossiter, a 49-year-old patient who also has a terminal illness, was given the option to end his life or continue receiving medical care in August 2009 by the Supreme Court of Western Australia. He chooses to do so. As a result, The Court of Australia grants patients with terminal illnesses and their parents in case of a minor the freedom to

[55] Harshita Tripathi, *Right to Die with Dignity: A Legal Right*? 6 Supremo Amicus 128 (2018).

choose the type of medical care they receive. However, it can be said that passive euthanasia is prohibited in Australia.[56]

- **Belgium**

  In September 2002, the Belgian Parliament passed the "Belgium Act on Euthanasia," according to which euthanasia refers to "intentionally ending life by someone other than the person concerned at that latter's request" and in the same year only, euthanasia became legal. Euthanasia is only permitted under very strict conditions, including that the patient should not be minor, have made the request voluntarily, have done so several times, be in a condition so as to give consent, and be experiencing excruciating physical or mental suffering that can be relieved. Before being approved, all of these actions must be reported to the authorities in order to meet the prerequisites[57].

- **Canada**

  Patients have the right to refuse life-sustaining treatment in Canada, but they are not allowed to request assisted suicide or euthanasia. According to Canadian Criminal Code Section 241(b), physician assisted suicide is prohibited. In the case of **Sue Rodriguez v. British Columbia (Attorney General)[58]**, the Supreme Court of Canada ruled that the state's interest in assisted suicide will take precedence over the individual's interest[59].

- **China**

  Article 232 of the Criminal Law of the People's Republic of China, states that "Anyone who deliberately engages in killing will be subjected to death, life imprisonment, or fixed-term imprisonment of not less than 10 years; if situations

[56] *Id.*
[57] Euthanasia in India, *supra* note 3.
[58] (1993) 3 SCR 519.
[59] Aggarwal, *supra* note 6.

are comparatively smaller, he will be subjected to fixed-term imprisonment of not less than three years but not more than 10 years[60]."

Additionally, Article 233 states that, "whosoever carelessly triggers the death of another person shall be assigned to a fixed-term imprisonment of not less than three years but not more than seven years; if circumstances are relatively minor, he shall be sentenced to a fixed-term imprisonment of not more than three years, with the exception as provided for otherwise in this Law."

So, these provisions means that in China, both euthanasia along with assisted suicide are prohibited. Although Euthanasia regulations were presented by a number of National People's Congress (NPC) members of China in March 1994, however they were not adopted[61].

- **Switzerland**

In Switzerland, assisted suicide is legal and can be carried out by non-physicians, which is unusual. Although euthanasia is prohibited, there is discussion about decriminalizing it. In Switzerland, non-physicians may provide altruistic assisted suicide. This has produced a special circumstance. It has distinct problems that can occasionally be combined. Without focusing solely on doctors, it has been discussed whether assisted voluntary death should ever be permitted. Separate discussions about doctors' proper roles during the dying process have taken place[62]. They are relevant to both discussions.

- **Luxemburg**

The first reading of a bill illegalizing passive euthanasia in Luxembourg's parliament received 30 out of 59 votes in favor. After the Netherlands and

[60]Euthanasia & Medical Aid in Dying (MAID) around the World - Euthanasia - ProCon.org, https://euthanasia.procon.org/euthanasia-physician-assisted-suicide-pas-around-the-world/#china (last visited Aug 28, 2023).

[61] *Id.*

[62] Samia A. Hurst & Alex Mauron, *Assisted suicide and euthanasia in Switzerland: Allowing a role for non-physicians*, 326 BR. MED. J. 271 (2003).

Belgium, Luxemburg's parliament decriminalized passive euthanasia in February 2008, making it the third European nation to do so. This became evident following the bill's second reading, which was passed in 2009, March. Luxemburg residents now have the option to end their lives with the approval of two doctors and an expert panel. 26 out of 30 votes were required to pass the aforementioned law[63].

- **U.S.**

The dividing line among both passive and active euthanasia is still recognized by law in the United States. The Supreme Court of United States declared euthanasia to be completely illegal in the cases **Washington v. Glucksberg**[64] and **Vacco v. Quill**[65], but physician assisted dying is permitted in the states of Oregon and Washington as well as in Montana also but by the state judiciary and not by the legislature[66].

VIII. RELIGIOUS ASPECTS OF EUTHANASIA

- **Hinduism**

"I will give no deadly medicine to anyone if asked, nor suggest any such counsel" – The Hippocratic Oath.

Hindus have a variety of opinions on concept of euthanasia. The majority of Hindus would argue that a physician shouldn't grant the request of the patient for allowing or helping in performing euthanasia because doing so would result in the soul and body being divided at an unnatural time. The outcome will harm both the doctor's and the patient's karma. Hindus hold that the soul or can be called as atman, reincarnates throughout many lives not necessarily all of the human beings. To attain moksha or freedom from the death and rebirth cycle is the utmost

[63] *Supra* note 42.
[64] 521 US 702 (1997).
[65] 521 US 793 (1997).
[66] Aggarwal, *supra* note 6.

goal of life. Karma, which is the result of a soul's own positive or negative actions in former lives, determines the soul's next life.[67]

Euthanasia is not permitted while, according to some Hindus, because it goes against the ahimsa teachings. Ahimsa can be referred as not using violence or inflicting harm upon other human beings[68].

Prayopavesa, or dying on a fast, is one such exemption to the Hindu restriction against suicide. In contrast to Prayopavesa, which is natural and non-violent and is linked to emotions of serenity, suicide is frequently connected to emotions of frustration, distress, or anxiety. Prayopavesa is only for people who are content with their lives, have no more needs or aspirations, or obligations to achieve in this life. Prayopavesa, in contrast to suicide, is a slow method that gives the patient and his community plenty of time to make preparations for the person's passing. The decision should be made in the open, and the action must be carried out in accordance with local laws[69].

- **Islam**

Muslims basically oppose assisted suicide or concept of euthanasia. They hold that since Allah bestows life upon each person and determines how long each individual will live, all human lives are sacred. People shouldn't get involved in this[70].

"*Don't take life, which Allah has declared sacred, unless it's necessary to uphold the law*"[71].

"*Don't destroy yourself. No doubt, Allah is always merciful to you*"[72].

There exists no distinction between both the Sunni and Shiite schools of thought regarding active euthanasia in light of the aforementioned verses, which have

[67]BBC, *BBC - Religions - Sikhism: Euthanasia, assisted dying, and suicide*, BBC (2014), http://www.bbc.co.uk/religion/religions/sikhism/sikhethics/euthanasia.shtml.
[68] *Id.*
[69] Namita Nimbalkar, *Euthanasia: The Hindu Perspective*, NATL. SEMIN. BIOETH. 55 (2007), www.vpmthane.org.
[70] Religions - Islam: Euthanasia, assisted dying, medical ethics and suicide, BBC NEWS (2012), https://www.bbc.co.uk/religion/religions/islam/islamethics/euthanasia.shtml.
[71] The Glorious Qur'an Chapter 17, Verse 33.
[72] The Glorious Qur'an Chapter 4, Verse 29

been chosen to take from the Holy Quran. Humans are unable to and should not try to expedite or postpone death because Allah controls the time when they will die and they have no control over it. The ban on taking another person's life, committing suicide, murder, or genocide are all prohibited acts[73].

- **Sikhism**

  Sikhs primarily obtain their moral principles from either the Guru Granth Sahib or the Sikh Code of Conduct (the Rehat Maryada). The gurus' instance and the Sikh community's experience over the past 500 years are other sources of guidance. These instead lay out broad principles and offer a framework for Sikhs to respond to those questions, rather than providing thoughtful responses to several moral considerations[74].

  Life is viewed by Sikhs as a divine gift. No one can impede with God's timing of birth and death; only God has that authority. The Sikh Gurus opposed murder, suicide, and any other form of killing besides those committed in the service of a good cause. According to Sikhism, Karma brings about suffering, and people must possess the moral fortitude to endure it without going through physical or emotional pain. A individual should pray to the Lord for the kindness to allow them and their family to endure suffering in a true essence of affirmation and surrender[75].

  As per the religion of Sikh, rescuing a person's life is among the most remarkable features that can be done. Because of this rationale, Sikhs are perfectly alright with organ donation after death[76].

- **Christianity**

[73] *Supra* note 5.
[74] André Kimbonguila et al., *Effect of Physical Treatment on the Physicochemical, Rheological and Functional Properties of Yam Meal of the Cultivar "Ngumvu" From Dioscorea Alata L. of Congo*, 10 INT. J. RECENT SCI. RES. 30693 (2019).
[75] End of Life Decisions : A Perspective From Sikhism End of Life Decisions : A Perspective From Sikhism, (2021).
[76] *Id.*

There are many different religious perspectives on euthanasia, but according to the Bible, God created us as thinking, free-willed beings. As a result, we possess a mind and will that God give us, allowing us to lead our lives freely without being forced to. God holds us responsible for our choices. While having the option is decent, we must also recognize and cherish liberty, reliance, and at last our existence[77].

- **Jainism**

The Jain religion endorses Sallekhana. It represents progress toward self-realization. It is intended to help one break free from physical restraints and achieve self-inclusion, or the pureness of the spirit through spirit. It is obvious that the goal of this declaration is not to waste too much time on pointless pursuits in an effort to prolong the presence of the body, which should eventually be given up. Therefore, the attachment to it is abandoned, which has the effect of making a person who exercises Sallekhana encounter their unavoidable death as a victor. It makes sense that it would be a divine greeting to death. This is a way to effectively deal with death's challenge rather than giving in to it. According to spiritual principles, "death by Sallekhana is the triumph of the spirit over karmas and subsequent mental and physical disorders that worldly creation may have caused to exist. It is a conduct of satisfaction"[78].

- **Buddhism**

Buddha's scriptures make no mention of it specifically. Majority of Buddhists combat involuntary euthanasia. Their stance on voluntarily assisted suicide, however, doesn't seem as clear[79].

[77] Christian views on assisted suicide | CARE, https://care.org.uk/cause/assisted-suicide/christian-views-on-assisted-suicide.
[78] Kokila H Shah, *The Jain Concept Of Sallekhana : A Loss Or a Gain ?*, 50 (2007).
[79] Roy W. Perrett, *Buddhism, euthanasia and the sanctity of life*, 22 J. MED. ETHICS 309 (1996).

The most prevalent viewpoint contends that voluntary euthanasia is not correct since it shows that a person's mental health is poor and that they consented to physical pain which will result in emotional pain. A person should be able to reach a condition of mental pain relief through meditation and the appropriate use of painkillers, at which point they must refrain from considering suicide or euthanasia. One considers voluntary euthanasia to be a sort of suicide, then we run into another issue[80].

In two instances, the Buddha himself demonstrated his tolerance for monk suicide. Numerous instances of monk suicides can be found in the Japanese Buddhist tradition, and Buddhist monks in Vietnam where they utilized it as an instrument of warfare. Therefore, a person's mental condition at the precise moment of death is significant; opinions they hold should be kind and wise, devoid of resentment, hatred, or fear. This implies that euthanasia and suicide are only acceptable for those who have attained enlightenment while all the remaining of mankind should abstain from both of them[81].

IX. ARGUMENTS IN SUPPORT OF EUTHANASIA

Euthanasia decriminalization is supported by a number of factors. The following are a few of them:

1. First of all, according to me in our Nation everyone has the constitutional right to pass away in dignity.
2. Secondly, the state and others have no right to intervene until and unless, there is no damage causing to others, as death is considered to be a private matter of a person.
3. Euthanasia undermines society's adherence to the principle of life sanctity. While euthanasia may not always be in a person's best interests, it may be essential for

[80]BBC - Religions - Buddhism: Euthanasia and suicide, https://www.bbc.co.uk/religion/religions/buddhism/buddhistethics/euthanasiasuicide.shtml (last visited Aug 29, 2023).
[81] *Id*.

individuals who are sick of leading lives that are worthless due to the excruciating pain, suffering, and other indignities they entail. Therefore, according to me, dying remains the one and only option for such individuals who have no chance of recovering in order to finish their own lives in a dignified manner[82].

4. Since all of our other human rights imply the right to die, therefore, I don't think there is a need for an independent "Right to Death"[83].
5. Euthanasia actually lowers the cost of their medical care as when a patient is terminally ill and doesn't have any chance of recovery, on that person, I don't think spending more and more money is of any use. Instead spending that money on patients who have a chance of recovering from their illnesses is preferable[84].
6. Lastly, as I have noticed most families today are small, leaving hardly anyone to take care of a patient who has been in a permanent vegetative state for a very long period of time. Euthanasia thus relieves both the patients and their families of the responsibility of caring for people who have lost all hope of recovering[85].

X. ARGUMENTS AGAINST EUTHANASIA

There are number of arguments that are against the concept of euthanasia and due to which it should not be made acceptable within our nation easily. So, these arguments are[86]:

1. In my Opinion, euthanasia being an option might have a negative influence on society and the relationship of doctor and the patient. Mutual trust is the foundation of the doctor-patient relationship, and it is suspected that if euthanasia is made legal, this faith will not remain like earlier.

[82] Ansari, A., "*The Right to Die via Euthanasia: An Expository Study of the Shri'ah and Laws in Selected Jurisdictions*", Page 673 - 681, Advances in Natural and Applied Sciences. (2012).
[83] DR. Parikh, c.k. PARIKH'S TEXTBOOK OF MEDICAL JURISPRUDENCES, FORENSIC MEDICINE AND TOXICOLOGY, Page 155, New Delhi, CBS Publishers & Distributors, (6th Edition, 2006).
[84] Souradeep Rakshit & Arpita Mitra, *Euthanasia vis-a-vis Right to Die with Dignity: An Analysis of Article 21 of the Constitution of India and Approach of the Indian Judiciary*, 2020.
[85] Mazloom, S., Hamidian Jahromi, A., & Bastani, *Legalization of Euthanasia and Physician -Assisted Dying: Condemnation of Physician Participation*, Online Journal of Health Ethics, 2017.
[86] Euthanasia in India, *supra* note 3.

2. It is suspected that if euthanasia is permitted, other more susceptible groups of people may feel pressured to choose this course of action for themselves.
3. It has a tendency to go downhill; for instance, it might initially be made legal only for those who are terminally ill, but with the passage of time, the laws might get changed and euthanasia, might eventually become acceptable on non-voluntary or involuntary grounds as well which I think would not be fair.
4. The decriminalization of euthanasia is opposed by institutions that advocate for disabled people on the grounds that these vulnerable populations may feel compelled to choose euthanasia because they may view themselves as a society's burden is something on which I agree.
5. As we all know, God gives human life as a gift, and since taking the life is unlawful and immoral, no living person has the right to take on the role of God. Therefore, human life is being devalued by euthanasia[87].
6. In my opinion, it is blatantly against morality, policy initiatives, and ethical norms. Nursing, caretaking, and recovery are required by medical ethics, not taking the patient's life. Medical science is currently progressing very quickly. As a result, even the most fatal illnesses are now treatable. Therefore, medical professionals should perhaps, encourage the patient to lead their painful lives with power, which should be both moral and physical, rather than urging them to take their own lives[88].
7. Moreover, the patient does not make the choice to request euthanasia alone. It has been seen in many cases that even the patient's family members as well as the other relatives contribute significantly to that for their own benefit like in order to acquire the valuable belongings or any property if it is there of the ill person[89].

[87] Ajay Kumar, Aseem Mehra & Ajit Avasthi, *Euthanasia : A Debate — For and Against*, 22 (2021).
[88] The Incident & Aruna Ramchandra Shanbaug, *Euthanasia : Should it be lawful or otherwise ?*, 2 1 (2011).
[89]Euthanasia: Right to Life vs right to Die – PMC, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3612319/#ref3 (last visited Nov 24, 2022).

XI. CONCUSION

The topic of euthanasia is extremely sensitive and emotional. The best interests of the patient and the principle of autonomy have been regarded as essential components of the case for decriminalizing euthanasia. The authors of our constitution believed that "no individual should be compelled to lead an undignified life." It suggests that the Supreme Court of India's position on the protection of the right to a dignified death under the Constitution is a reflection of the views of those who wrote our constitution. Although it is critical that a unique piece of legislation be passed, its proper implementation is even more crucial. In India, there is a very high likelihood that euthanasia will be misused.

Both in passive euthanasia and living will, this is a very challenging part because the exploitation cannot be easily detected. Euthanasia has been made legal in India; a big thanks goes to the Indian judiciary for this. In the case of Gian Kaur, it is claimed that suicide is forbidden in India. However, it cannot be applied to euthanasia. In the case of Aruna Shaunbag, the Apex Court of India authorized the concept of passive euthanasia. Passive euthanasia is allowed by law under certain strict conditions, is however, recognized by the court. But Active euthanasia is still officially banned in India. The Supreme Court of India recently introduced the idea of a "living will" and provided some rules that must be adhered to when performing euthanasia in a case known as Common Cause.

A special law covering all facets of euthanasia must be passed by Parliament as soon as possible. It is crucial to consider the advice of India's law commission and the Supreme Court of India's decision regarding euthanasia in order to prevent pervert and misapplication of euthanasia and living wills.